

On motion of Senator Craven, the rules were suspended, and Senate bill No. 645, "An act for the relief of Thomas Parker," was taken up, and read second time.

On motion of Senator Swift, the Senate adjourned until 10 o'clock A. M., to-morrow.

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## TWENTY-EIGHTH DAY.

SENATE CHAMBER,  
AUSTIN, February 12, 1875.

Senate met pursuant to adjournment; roll called; quorum present. Prayer by the Rev. Dr. J. Ditzler, of Sterling, Kentucky.

On motion of Senator Westfall, the reading of the journal of yesterday was dispensed with.

On motion of Senator Westfall, Senator Davenport was excused until Tuesday next.

On motion of Senator Wood, Senator Bradley was excused for five days from to-morrow.

On motion of Senator Hobby, Capt. H. C. Surghnor, Enrolling Clerk of the Senate, was excused until Tuesday next.

Senator Erath presented the petition of citizens of McLennan county, "Asking for the incorporation of the Waco and Belton Turnpike Company." Read and referred to Committee on Internal Improvements.

Senator Wood, Chairman Committee on Comptroller's and Treasurer's Office, submitted the following report:

*Hon. R. B. Hubbard, President of the Senate:*

Your Committee on Comptroller's and Treasurer's Office, to whom was referred Senate bill No. 462, entitled "An act to authorize the Treasurer to appoint an additional clerk," have carefully considered said bill, and instruct me to report back the accompanying substitute, and recommend that it do pass.

Wood, Chairman.

The title of the substitute referred to, is "An act to authorize the State Treasurer to appoint an additional clerk, and fix his compensation."

Senator Wood, for Judiciary Committee, submitted the following reports :

*Hon. R. B. Hubbard, President of the Senate :*

Your Committee on Judiciary, to whom was referred Senate bill No. 654, "An act to authorize the Governor to appoint an Assistant Attorney General, and define his salary and duties," have carefully considered the same, and instruct me to report the accompanying substitute for the original bill, and recommend that it do pass.

WOOD, for Committee.

The title of the substitute referred to, is "An act to authorize the Governor to appoint an Assistant Attorney General, define his duties and fix his salary."

*Hon. R. B. Hubbard, President of the Senate :*

Your Committee on Judiciary ask leave to report back to the Senate, House bill No. 660, "An act to pay counsel for prosecuting cases in favor of the State," and recommend that the same do pass, as it came from the House without the Senate amendments.

WOOD, for Committee.

Senator Hobby, Chairman Committee on Public Buildings, submitted the following report :

*Hon. R. B. Hubbard, President of the Senate :*

Your Committee on Public Buildings, to whom was referred Senate bill No. 653, "An act to protect the Capitol and other public buildings from fire," ask leave to report that they have considered said bill, and instruct me to report it back to the Senate, and recommend that it do not pass.

HOBBY, Chairman.

Senator Dwyer, Chairman Committee on Claims and Accounts, submitted the following report :

*Hon. R. B. Hubbard, President of the Senate :*

Your Committee on Claims and Accounts, to whom was referred House bill No. 762, "An act making an appropriation to pay Richardson, Belo & Co. for certain public printing therein named," have considered the same, and instruct me to report it back to your honorable body, and recommend that it do pass.

W. H. SWIFT, Chairman.

Senator Allison, Chairman Committee on Stock and Stock Raising, submitted the following report :

*Hon. R. B. Hubbard, President of the Senate :*

Your Committee on Stock and Stock Raising, to whom was referred Senate bill No. 608, "An act to prevent the running of certain stock at large, and to provide penalties therefor," have considered the same, and instruct me to report it back to your honorable body, with the recommendation that it do not pass.

R. D. ALLISON, Chairman.

Senator Baker offered several petitions from citizens of Titus county, for and against the dismemberment of that county ; also, a bill entitled "An act to create and provide for the organization of the county of Franklin." All read and referred to Committee on Counties and County Boundaries.

Senator Culberson, Chairman Committee on Internal Improvements, submitted the following report :

*Hon. R. B. Hubbard, President of the Senate :*

Your Committee on Internal Improvements ask leave to report back to your honorable body, Senate bill No. 651, "An act to amend 'an act to incorporate the Dallas and Wichita Railroad Company,'" and recommend its passage.

CULBERSON, Chairman.

*Hon. R. B. Hubbard, President of the Senate :*

Your Committee on Internal Improvements ask leave to report back to your honorable body, Senate bill No. 629, "An act to incorporate the Indianola and Texana Transportation Company," and recommend its passage, with the following amendments :

1st. Amend by striking out the following words: "counties, cities, towns," also, the following words: "or other parties and person," page 1, lines 18 and 19.

2d. Amend by inserting before the word "corporation" the word "private," page 1, line 18.

3d. Amend section 5 by striking out the word all after the word "railroad," down to the word "and," commencing on page 5, line 4, down to line 16.

CULBERSON, Chairman.

Senator Joseph introduced a bill, entitled, "An act to improve the navigation of Oyster creek, Bernard and

Caney." Read first time and referred to Committee on Internal Improvements.

Senator Joseph introduced a bill, entitled, "An act making an appropriation to pay Captain L. H. McNelly's company for seven months services, and the Galveston companies, and the expenditures attending the same while in service to aid the civil authorities." Read first time and referred to Committee on State Affairs.

Senator Hobby introduced a joint resolution "amending sections six and seven of article 5 of the constitution." Read first time and referred to Committee on Constitutional Amendments.

Senator Craven introduced a bill, entitled, "An act to amend an act, entitled, 'an act to incorporate the Sherman, Wichita and Pan Handle Railway, and to grant land to aid in the construction thereof,'" passed May 22, 1873. Read first time and referred to Committee on Internal Improvements.

Senator Shepard introduced a bill, entitled, "An act to limit the power of taxation of the several cities and towns of the State." Read first time and referred to Judiciary Committee :

Senator Westfall, for Committee on Enrolled Bills, submitted the following report :

*Hon. R. B. Hubbard, President of the Senate :*

Your Committee on Enrolled Bills beg leave to report that they have carefully examined, compared and find correctly enrolled the following Senate bills, to-wit: Senate bill No. 472, "An act to provide for the building and completing of two State penitentiaries, with a view to the utilization of the convict labor of the State in mining and manufacturing enterprises;" and Senate bill No. 543, "An act to improve the navigation of the Neches river in the State of Texas, from Weiss's Bluff on said river to Bunn's Bluff," and have this 12th day of February, A. D. 1875, at 10:25 o'clock A. M., presented the same to the Governor for his approval.

WM. H. WESTFALL,  
for Committee.

The unfinished business being the consideration of Senate bill No. 645, "An act for relief of Thomas Parker," it was taken up, read second time and ordered engrossed.

On motion of Senator Craven, the rules were suspended, bill read third time and passed.

Senator Shepard introduced a bill entitled "An act to amend 'an act regulating juries;' passed May 19, 1873." Read and referred to Judiciary Committee.

On motion of Senator Bradshaw he was allowed to withdraw from the calendar the petition and bill asking for the creation of the county of Bradshaw.

Senator Parker introduced a bill entitled "An act to incorporate the Mount Vernon High School, at Mount Vernon, in Titus county." Read first time and referred to Committee on Education.

Senator Parker, also presented a petition from citizens of Mount Vernon, Titus county, "Asking for the incorporation of the Mount Vernon High School." Read and referred to Committee on Education.

On motion of Senator Shepard, the rules were suspended, and Senate bill No. 621, "An act to reimburse Lee county for expenditures in making out proper assessment rolls for the same," was taken up, read second time and ordered engrossed,

On motion of Senator Shepard, the rules were further suspended, bill read third time and passed by the following vote:

YEAS—Senators Ball, Baker, Bradshaw, Craven, Dillard, Ellis, Joseph, Ledbetter, Parker, Randle, Shepard, Stirman, Swift and Westfall—14.

NAYS—Senators Bradley, Burton, Camp, Culberson, Erath, Friend, Hobby, Morris and Wood—9.

(Senator Flanagan in the chair.)

On motion of Senator Ball, the rules were suspended, and Senate bill No. 644, "An act to incorporate the Fairfield, Hillsboro and Cleburne Railroad Company, and to grant land to aid in the construction thereof," was taken up and read second time, pending amendments recommended by Committee on Internal Improvements.

The amendments of the committee were adopted.

The bill, as amended, was then ordered engrossed.

On motion of Senator Bradley, the rules were suspended, bill read third time and passed by the following vote:

YEAS—Senators Ball, Baker, Bradley, Burton, Camp, Culberson, Dillard, Flanagan, Friend, Hobby, Ledbetter, Morris, Parker, Randle, Stirman, Swift, Westfall and Wood—18.

NAYS—Senators Allison and Bradshaw—2.

On motion of Senator Culberson, the rules were suspended, and Senate bill No. 651, "An act to amend 'an act to incorporate the Dallas and Wichita Railroad Company, and to aid in the construction of said road ;'" approved May 24, 1873, was taken up, read second time and ordered engrossed.

On motion of Senator Culberson, the rules were suspended, bill read third time and passed.

A message was received from the House announcing the passage of Senate bill No. 483, "An act to amend sections three and seven of 'an act to incorporate the Rusk Transportation Company,'" approved May 2, 1874, with amendments by the House.

On motion of Senator Wood, the rules were suspended, and Senate bill No. 654, "An act to authorize the Governor of the State to appoint an Assistant Attorney General, and to define his duties and salary," was taken up, and also substitute therefor, entitled "An act to authorize the Governor to appoint an Assistant Attorney General, define his duties and salary."

Substitute read first time and adopted. Rules suspended, and the substitute read second time.

Senator Hobby offered the following amendment: Strike out after the word "direction," in section one, the word "Governor," and insert "Attorney General." Adopted.

The bill as amended was then ordered engrossed.

On motion of Senator Wood, the rules were further suspended, bill read third time and passed.

Senator Randle, by leave, introduced a bill entitled "An act to incorporate the Colorado River Railroad and Slack-water Navigation Company, and aid in the construction of the same." Read first time and referred to Committee on Internal Improvements.

On motion of Senator Friend, the rules were suspended and Senate bill No. 628, "An act to authorize DeWitt county to construct a bridge across Sandies' creek," was taken up and read second time and ordered engrossed.

On motion of Senator Friend, the rules were further suspended, bill read third time and passed.

The hour for the consideration of the special order having arrived, to wit: Senate bill No. 31, "An act to amend the 4th section of 'an act better defining the marital rights of parties,'" passed March 13, 1848, it was, on motion of Senator Dillard, postponed until Monday next, at 11

o'clock, A. M., and made special order for that day and hour.

On motion of Senator Allison, the rules were suspended and Senate bill No. 490, "An act concerning land titles," was taken up and read second time.

Senator Ellis offered the following amendment: Amend section 1, by adding after the word "State," in the eleventh line, the following words: "in accordance with the provisions of the laws relating to the registration of deeds and other instruments of writing in force at the date of the original record of such deed of transfer or certificate." Adopted.

The bill as amended was then ordered engrossed.

On motion of Senator Allison, the rules were further suspended, bill read third time and passed.

The following House bills were read first time and referred to committees, to-wit:

House bill No. 601, "An act to provide for the re-compilation of an abstract of titled and patented lands in Texas," to Committee on Public Lands.

House bill No. 584, "An act to amend an act entitled 'an act to adopt and establish a Penal Code for the State of Texas,' " approved August 28th, A. D. 1856, to Committee on Judiciary.

House bill No. 591, "An act to amend the first section of an act entitled an act to amend the first section of an act to amend the fourth section of an act entitled 'an act regulating attachments,' " approved March 11, 1848; passed July 24, 1856; approved December 16, 1863, to Committee on Judiciary.

House bill No. 611, "An act to repeal an act entitled 'an act to incorporate the city of Sulphur Springs, in Hopkins county,' " approved March 4, 1873, to Committee on State Affairs.

House bill No. 610, "An act to detach certain territory therein named from the county of Guadalupe and to attach the same to the county of Hays," to Committee on Judiciary.

House bill No. 651, "An act to punish parties for cutting brands out of beef hides," to Committee on Stock and Stock Raising.

House bill No. 352, "An act to create and provide for the organization of the county of Gordon, named in honor of

General John B. Gordon, of Georgia," to Committee on Counties and County Boundaries.

House bill No. 677, "An act to incorporate the Austin Bridge Company," to Committee on Internal Improvements.

House bill No. 615, "An act to incorporate the Henderson and Center Railway Company," to Committee on Internal Improvements.

Senator Wood asked leave to introduce a bill, saying that he wished to do so at the instance of one of the most distinguished citizens of Texas, Hon. McBride Prodgen. Leave granted.

The title of the bill referred to is "An act to discourage and prevent fraudulent conveyances to real estate." Read first time and referred to Judiciary Committee.

On motion of Senator Shepard the rules were suspended, and Senate bill No. 626, "An act supplemental to 'an act to encourage the erection of certain machinery by donations of land and otherwise,' approved December 15, 1873, was taken up, read second time and ordered engrossed.

On motion of Senator Shepard, the rules were suspended, bill read third time and passed.

On motion of Senator Friend, the rules were suspended, and Senate bill No. 568, "An act to amend section 712 of the Penal Code," was taken up, and read second time.

Senator Wood offered the following amendment:

Amend section 1 by striking out the words "three years' imprisonment in the county jail." Adopted.

The bill, as amended, was then ordered engrossed.

On motion of Senator Friend, the rules were suspended, bill read third time and passed.

On motion of Senator Westfall, the rules were suspended, and Senate bill No. 638, "An act to authorize the county court of Travis county to issue and dispose of the bonds of said county, for the purpose of erecting a courthouse and jail, in accordance with the provisions of 'an act to lease to the use of Travis county certain land in the city of Austin, on which to erect a courthouse and jail, and to enable said county to build the same,' approved May 4, 1874, and to provide for the redemption of said bonds," was taken up, read second time and ordered engrossed.

On motion of Senator Westfall, the rules were further suspended, bill read third time and passed, by the following vote:

YEAS—Senators Allison, Baker, Bradley, Culberson, El-



lis, Erath, Flanagan, Friend, Joseph, Ledbetter, Stirman, Swift and Westfall—13.

NAYS—Senators Bradshaw, Camp, Dillard, Hobby, Morris, Parker and Wood—7.

Senator Ellis, by leave, introduced a bill, entitled, "An act creating a lien in favor of hotel and boarding house keepers and proprietors of livery or other public stables, and providing for the enforcement of the same." Read first time and referred to Judiciary Committee.

On motion of Senator Flanagan, the rules were suspended, and Senate bill No. 643, "An act to amend the 13th section of 'an act to encourage the construction of railroads in Texas, by donation of land,'" approved January 30, 1854, was taken up, read second time and ordered engrossed.

On motion of Senator Flanagan, the rules were suspended, bill read third time and passed.

On motion of Senator Dillard, the rules were suspended, and Senate bill No. 483, "An act to amend sections three and seven of 'an act to incorporate the Rusk Transportation Company,'" approved May 2, 1874, was taken up, pending House amendments thereto.

On motion of Senator Dillard, the House amendments were concurred in.

Senator Culberson, by leave, submitted the following report from the Committee on Internal Improvements:

*Hon. R. B. Hubbard, President of the Senate:*

Your Committee on Internal Improvements ask leave to report back to the Senate; Senate bill No. 648, "An act to incorporate the Gulf, Austin and Northern Railroad Company, and to grant land to aid in the construction thereof," and recommend its passage with the enclosed amendments.

CULBERSON, Chairman.

Amendments by committee: Amend section 1, by substituting the following:

Section 1. *Be it enacted by the Legislature of the State of Texas.* That a company is hereby incorporated, called the Gulf, Austin and Northern Railroad Company, the capital stock of which shall be five millions of dollars, but may be increased to any amount not exceeding ten millions of dollars, by a vote of two-thirds of the stockholders at a meeting called for that purpose; said capital stock to be divided into shares of one hundred dollars each, the holders

of which, their successors and assigns, shall constitute a body politic and corporate, and by the name aforesaid shall have continued succession for a period of ninety-nine years; may sue and be sued, plead and be impleaded, defend and be defended against; shall have and use a common seal, and shall be able in law and equity to make contracts necessary to carrying on its business; shall have power to receive donations of real estate or other property; may take, hold, use, possess and enjoy the fee simple or other title to any real estate, and may sell and mortgage the same; *provided*, that said company shall only own and hold such real estate as may be necessary to construct and operate said railroad, and shall have such other powers as may be deemed necessary to carry on its business; may make by-laws, rules and regulations, necessary and proper for carrying into effect the objects of the company; and also, when deemed proper, may change the name of said company to any other name.

Amend section four by substituting the following :

Section 4. Said railroad company, its successors and assigns, are hereby authorized and empowered to construct, own, equip and operate a line of railroad with either single or double track as said company shall deem best, and of such gauge, not less than three feet, as the board of directors of said company may adopt, together with a telegraph line along its railroad; commencing at or near the town of Rockport, in this State, on Aransas Bay; thence in a northeasterly direction to and through the city of San Antonio, in Bexar county, in this State; thence in a northeasterly direction to and through the city of Austin, in Travis county, in this State; thence to a point on the northern line of this State, somewhere between the eastern boundary of Wichita county and the western boundary of Wilbarger county, in this State.

Amend section nine by substituting the following :

Section 9. The State of Texas hereby donates and grants to the said company, out of any unlocated public lands of the State, sixteen sections of land, of six hundred and forty acres each, for each and every mile of railroad constructed and put in running order by it; and whenever any section of ten miles of railroad has been completed, the said company, through its president or secretary, may give notice of the same to the Governor of this State,

in writing, whose duty it shall be, on the receipt of such notice, to order a competent person to examine said section of railroad and report under oath; and if said section of ten miles of railroad be found to be constructed in a substantial manner and in running order, the Governor shall certify the same to the Commissioner of the General Land Office, and he shall issue to said company sixteen land certificates, of six hundred and forty acres each, for each and every mile of railroad so constructed and put in running order; and in like manner with each and every succeeding section of ten miles of said railroad, or such part of ten miles as shall be last examined, until the whole of said railroad has been completed. All the certificates issued as above to said company, shall be located by it in alternate sections; that is to say, for every section of land located by said company for its own use, said company shall also locate another section of land for the State, and return the field notes and plats of both sections to the Commissioner of the General Land Office, who shall number the sections so surveyed, and issue a patent to said company, its successors and assigns for the section numbered with an odd number, reserving the section numbered with an even number, for the school fund. And said company shall alienate its said lands acquired under the provisions of this section, if the same be patented to it, except so much thereof as may be necessary for the use and successful operation of its railroad, as follows: One-fourth in eight years, one-fourth in twelve years, one-fourth in sixteen years and one-fourth in twenty years, after the dates of the issuance of the certificates respective for said lands; *provided*, said company shall not alienate or sell said lands to any other corporation, or to any person or firm in trust for said company, or to any firm or corporation of which any officer or stockholder of said company is a member: if any such lands should be so sold or alienated, the same shall work a forfeiture thereof to the State; *provided*, that the State shall in no case be liable for a deficiency of public domain, and no land certificate issued under the provisions of this section, which may not be located because of the previous exhaustion of the public domain shall ever constitute any claim against the State; *provided*, that nothing in this section shall be so construed as to prevent said company from mortgaging said lands, together with its other property, including its

franchise, for the purpose of raising money to build, equip and complete its railroad.

Amend section ten by substituting the following :

Section 10. The State of Texas hereby grants to said company the right of way to the extent of two hundred feet in width over all lands in the State, along the line of its railroad, and the amount of such land as may be necessary for tracks, sidings, turnouts, depots, station houses and machine shops, and for the location and maintainance of wells, water tanks, and other necessary buildings incidental to its uses and purposes, in the construction and operation of said railroad ; also, the right to take from all lands belonging to the State, within five miles of the located line of its railroad, such timber, rock, earth and other materials as may be needed for the construction and operation of its railroad ; also, the right to cross and bridge all rivers and water-courses, and construct, operate and maintain ferries along its line ; also, to cross the track of any other railroad which it may intersect ; *provided*, that, for the cost of any preliminary or other survey, the State shall not be in any wise liable, but the expenses thereof shall be paid by the said company.

Amend section 11, by substituting the following : Section 11. It shall be lawful for said company to enter upon and purchase, and otherwise take and hold, any lands necessary for the purpose of establishing and constructing said railroad, and all necessary depots, sidings, turnouts, machine shops and other buildings ; and if they shall not be able to obtain said lands by agreement with the owner thereof, they shall pay such compensation as shall be determined in the manner provided for by the general laws of the State.

Amend by striking out section 12, and numbering the sections following 12, 13 and 14, respectively.

On motion of Senator Westfall, the bill and report was re-committed to the Committee on Internal Improvements.

Senator Wood, by leave, for Judiciary Committee, submitted the following report :

*Hon. R. B. Hubbard, President of the Senate :*

Your Committee on Judiciary, ask leave to report back to your honorable body, Senate bill No. 624, "An act to establish, organize and define the powers of the Criminal District Court in and for the cities of Austin and Bren-

ham," and recommend its passage, with the following amendments:

1. Amend by substituting for section 4 the following: Section 4. The terms of said court shall be held as follows, to-wit: In the city of Austin, and beginning with the first Monday in May, 1875, and on the first Mondays in August, November and February thereafter, in said year and subsequent years; in the city of Brenham, on and beginning with the first Monday in July, and on the first Mondays in October, January and April thereafter, in the same and subsequent years, and may continue in session four weeks, unless business is sooner disposed of. And the judge of said courts shall be authorized at any time to hold a special term of the same whenever he may see fit, by giving notice thereof by publication for two weeks prior to the day of commencing said term, in some newspaper published in the said county, which notice shall be given by the clerk of said court. And all acts done at said special terms shall be as valid as if done at a regular term, and the judge of said court may summon a grand jury for said special term if he see proper.

2. Amend by inserting the following in lieu of section 8: Section 8. The judge of said court shall receive the same salary as is now provided by law for judges of the district courts of this State; and the said salary shall be paid in the same manner as salaries of said district judges are now drawn and paid.

Wood, for Committee.

On motion of Senator Shepard, the rules were suspended, and Senate bill No. 624, "An act to establish a Criminal District Court in and for the cities of Austin and Brenham," was taken up and read second time.

The amendments of the committee were adopted.

Senator Bradley offered the following amendment: Amend by adding, in the proper place, as follows: "*provided*, that the counties of Travis and Washington shall pay the salary of the judges of said court, and shall never make application to the Legislature for a repeal of this provision." Lost.

The question then recurring on the engrossment of the bill, it was ordered engrossed, by the following vote:

YEAS—Senators Ball, Baker, Camp, Culberson, Ellis, Flanagan, Friend, Hobby, Joseph, Morris, Russell, Shepard and Westfall—13.

NAYS—Senators Allison, Bradshaw, Bradley, Burton, Dillard, Erath, Parker, Randle, Stirman, Swift and Wood—11.

On motion of Senator Culberson, the Senate adjourned until 11 o'clock A. M., to-morrow.

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TWENTY-NINTH DAY.

SENATE CHAMBER, )  
AUSTIN, February 13, 1875. )

Senate met pursuant to adjournment; roll called; quorum present. Prayer by the chaplain.

On motion of Senator Allison, the reading of the journal of yesterday was dispensed with.

Senator Ireland, in behalf of the Senators who signed the protest against the passage of Senate bill No. 463, "An act to limit the amount to be issued in bonds to the International Railroad Company, and to adjust all matters of difference between the State and said company," stated that the word "peculiar," used in the first line of the 9th and last section of said protest, meant no disrespect to the friends of said bill. That the best of personal relations exists between the protestants and those voting for the bill.

Senator Westfall, Chairman Committee on Education, submitted the following reports:

*Hon. R. B. Hubbard, President of the Senate:*

Your Committee on Education, to whom was referred Senate bill No. 655, "An act to appropriate unexpended school moneys to be used for educational purposes in the school districts to which they belong," having considered the same, a majority of said committee instruct me to report said bill back to your honorable body, and recommend its passage.

W. H. WESTFALL, Chairman.

*Hon. R. B. Hubbard, President of the Senate:*

Your Committee on Education, to whom was referred Senate bill No. 663, "An act to incorporate the Mount Vernon High School," having considered the same, instruct me to report said bill back to your honorable body, and